

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 98-58
Table of Allotments,) RM-9252
FM Broadcast Stations.)
(Brewster, Massachusetts)

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REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 20, 1999

Released: January 29, 1999

By the Chief, Allocations Branch:

1. In response to a petition filed by Brewster Broadcast Company ("BBC"), the Commission has before it for consideration the Notice of Proposed Rule Making, 13 FCC Rcd 8537 (1998), requesting the allotment of Channel 232A at Brewster, Massachusetts, as that community's first local broadcast service. BBC and Boch Broadcasting Limited Partnership ("Boch") filed comments supporting the allotment of Channel 232A at Brewster.¹ No other comments were received in response to the Notice in this proceeding.

2. The Notice pointed out that although BBC provided sufficient information to demonstrate community status, it was not clear if BBC was providing information for the unincorporated community of Brewster or the Town of Brewster. BBC was requested to clarify this issue. BBC states that the allotment is requested for the incorporated Town of Brewster which has an estimated 1997 census population of 8,460 people. According to BBC, Brewster is an artists colony which was settled in 1656 and incorporated in 1803. BBC states that the information provided in its petition for rule making relates to the incorporated community of Brewster. BBC points out that Brewster is governed by a board of selectmen, has its own schools, library, churches, and a chamber of commerce. BBC provided the names of numerous businesses that operate in Brewster, several museums and its own baseball team - the Brewster Whitecaps.

3. We believe that BBC has clarified the issue of whether the allotment was for Brewster or the Town of Brewster and has provided us with sufficient indicia to conclude that Brewster

¹ Although BBC filed a pleading styled as comments and a counterproposal, we do not consider the pleading as a counterproposal since it does not introduce a new community or propose a higher class allotment than proposed in the Notice. See Clinton, Saint Pauls and Southern Pines, North Carolina and Chesterfield, South Carolina, 6 FCC Rcd 4370 (1991).

is a community for allotment purposes. It is an identifiable population grouping with businesses and community organizations that identify themselves with the residents of Brewster.

4. After consideration of the information filed in this proceeding, we believe the public interest would be served by the allotment of Channel 232A at Brewster, Massachusetts. Channel 232A can be allotted to Brewster in compliance with the Commission's spacing requirements provided there is a site restriction 6.3 kilometers (3.9 miles) west of the community.² The site restriction will prevent a conflict with Station WHJY, Channel 231B, Providence, Rhode Island, and Station WJMN, Channel 233B, Boston, Massachusetts.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 15, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Brewster, Massachusetts	232A

6. A filing window for Channel 232A at Brewster, Massachusetts, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 232A at Brewster, Massachusetts, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

² The Coordinates for Channel 232A at Brewster are 41-46-31 NL and 70-00-38 NW.